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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,766	03/16/2001	Kenichi Shiraishi	0670-257	7907
31780	7590	05/31/2006	EXAMINER	
ERIC ROBINSON PMB 955 21010 SOUTHBANK ST. POTOMAC FALLS, VA 20165			BURD, KEVIN MICHAEL	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/805,766	<b>Applicant(s)</b> SHIRAISHI ET AL.	
	<b>Examiner</b> Kevin M. Burd	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. This office action, in response to the request for continued examination and the amendment filed 3/24/2006, is a non-final office action.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/24/2006 has been entered.

***Response to Arguments***

3. Applicant's arguments with respect to claims 2-12 have been considered but are moot in view of the new grounds of rejection. New claim 12 is rejected below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 2, 3, 6, 8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Dohl et al (WO 97/50197) (Dohl et al (US 6,341,224) is an English translation of WO 97/50197).

Regarding claims 2, 6 and 11, Dohl discloses a radio digital signal receiver and method of using a radio digital signal receiver shown in figures 2 and 3. A signal-to-interference plus noise power ratio (SIR) is measured in a SIR measuring unit 6 (figure 2 and column 4, lines 20-22). An error rate of the received signal is measured by a received signal error rate measuring unit 32 (figure 2 and column 4, lines 35-37). The error rate and the SIR values are calculated from the output of the demodulator 31 in figure 2. The measured SIR value is compared to a target SIR from a target SIR decision unit 12 (figure 2 and column 4, lines 22-26). The target SIR is calculated according to the error rate value (figure 2 and column 4, lines 35-41). The result of the comparison of the measured SIR and the target SIR is used to control the transmission power (figures 2 and 3 and column 4, lines 26-32).

Regarding claims 3 and 8, Dohl discloses the received signal is passed through a band pass filter to remove out-of-band components. After the received signal is converted to base band, the signal is low pass filtered (column 4, line 63 to column 5, line 8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 5, 7, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohl et al (US 6,341,224) (Dohl et al (US 6,341,224) is an English translation of WO 97/50197) in view of Miya et al (US 5,572,516).

Regarding claims 4, 5, 7, 9, 10 and 12, Dohl discloses the digital receiver shown in figures 2 and 3 and described above in paragraph 4. Dohl does not disclose using PSK to modulate the signal received in the receiver of figures 2 and 3. Miya discloses it is well known to transmit PSK modulated signals in CDMA power control systems. This is shown in figure 1 and described in column 4, line 60 to column 5, line 20. PSK signals are commonly used and inexpensive to transmit. For these reasons, it would have been obvious for one of ordinary skill in the art at the time of the invention to combine the use of PSK signal reception of Miya into the receiver of Dohl.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Friday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin M. Burd  
5/27/2006

  
**KEVIN BURD**  
**PRIMARY EXAMINER**